

NORTH DAKOTA INDUSTRIAL COMMISSION

OIL AND GAS DIVISION

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NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Industrial Commission, Oil and Gas Division, will hold a public hearing to address proposed amendments and two new sections to the North Dakota Administrative Code (NDAC) at 9am on January 5, 2004 in the Conference Room of the Oil & Gas Division Building, 1016 E. Calgary Avenue, Bismarck, North Dakota. The proposals are summarized below:

The purpose of the proposed amendment to NDAC § 43-02-03-05 is to prevent contamination of the environment and injury to the public. The proposed amendment allows the Director to shut in a well that is likely to cause a serious threat of pollution or injury to the public health or safety. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-15 is to revise our rule due to a change in the statute. The proposed amendment allows alternative forms of bonding after notice and hearing. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-16.3 is to revise our rule due to a change in the statute. The proposed amendment outlines the procedure that must be followed to receive the risk penalty against nonparticipating working interest owners. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-21 is to eliminate ambiguity in the rule and allow flexibility in producing methods. The proposed amendment clarifies that cement must isolate the uppermost sand in the Dakota Group and allows flowing wells to produce without a packer if the casing will not be subjected to excessive pressure or corrosion. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-22 is to eliminate ambiguity in the rule. The proposed amendment requires the operator to obtain approval from the Director prior to attempting remedial work on any casing. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-48.1 is to eliminate the Commission's burden of reviewing title opinions. The proposed amendment requires the applicant to submit an affidavit certifying common ownership when applying for a common ownership central production facility. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-49 is to reduce liability on production facilities. The proposed amendment requires the removal of unusable oil tanks and production equipment within one year. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-50 is to eliminate ambiguity in the rule. The proposed amendment clarifies what forms the operator must submit to the Commission when removing tank

bottom waste. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-53 is to reduce liability on saltwater handling facilities. The proposed amendment requires the removal of unusable saltwater tanks and injection equipment within one year. The proposed amendment is expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-60.1 is to set a more realistic value of gas than is currently provided. The proposed amendment requires the Commission, after notice and hearing, to set the value of gas flared in violation to NDCC Section 38-08-06.4. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-03-88.1 is to provide a less onerous procedure when submitting certain applications for hearing. The proposed amendment eliminates the need for the application to include an affidavit and eliminates the need to file two copies. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-88.2 is to provide a less onerous procedure to allow witnesses by telephone. The proposed amendment eliminates the need to request the telephonic communication request in the application. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-03-90.1 is to revise the statute citation due to a change in the statute. The proposed amendment corrects the statute citation. The proposed amendment will not have any monetary impact on the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-05-04 is to provide a less onerous procedure when submitting an application for an underground injection well. The proposed amendment eliminates the requirement to file the application thirty days prior to the hearing, eliminates the tabulation of information of data on wells in the area of review, requires analysis of the two nearest fresh water wells within one mile, clarifies notification in the area of review on grandfathered areas, requires any corrective action to be completed prior to injection instead of prior to the permit being issued, and provides that a permit to inject expires after one year if not converted to injection. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-06 is to require an injection packer to be set at a depth that is allowed by the Director. The proposed amendment requires the operator to obtain approval from the Director prior to setting an injection packer. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-07 is to standardize records retention and clarify when a report of work done must be submitted. The proposed amendment requires that records must be maintained for six years and requires subsequent reports filed within thirty days of completing any work. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-12 is to allow some flexibility in approving methods allowed to evaluate the absence of significant leaks. The proposed amendment provides that a positive pressure can be maintained in the annulus to evaluate the absence of significant leaks, eliminates records monitoring and spinner surveys as an evaluation method, but allows alternative methods as approved by the Commission. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-05-14 is to provide a less onerous procedure when submitting an application for an area permit. The proposed amendment eliminates the tabulation of data on wells within the area of review and clarifies the procedure for filing an area permit application. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-08-01 is to clarify how to interpret the rule for directional and horizontal wells. The proposed amendment redefines well depth to include the measured depth for

vertical, directional, and horizontal wells. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-08-02.1 is to promote further development in existing fields, especially within unitized fields. The proposed amendment allows the redesignation of a property into a Unit and provides for the redesignation of other lands, but only after notice and hearing. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-08-03 is to allow industry more time to file an application for a stripper well property. The proposed amendment eliminates the requirement to file within twelve months after the end of the qualification period. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-09-02 is to allow industry more time to file an application for a workover project. The proposed amendment eliminates the requirement to file within twelve months after the completion of the workover project. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-11-01 is to clarify definitions without repeating the statute. The proposed amendment refers to certain statute citations for certain definitions. The proposed amendment will not have any monetary impact on the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-11-02.1 is to change the section number. The proposed amendment changes the section number from 43-02-11-02 to 43-02-11-02.1. The proposed amendment will not have any monetary impact on the regulated community.

The purpose of the proposed rule under NDAC § 43-02-11-02.2 is to create a new section that deals with a statute creating a shallow gas tax exemption. The proposed rule outlines the procedure to file an application to certify a shallow gas well. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed rule under NDAC § 43-02-11-06 is to create a new section that deals with a statute creating a shallow gas tax exemption. The proposed rule creates a new section outlining the procedure to file an application to exempt a shallow gas well from the production tax. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-11-07 is to change the section number. The proposed amendment changes the section number from 43-02-11-06 to 43-02-11-07. The proposed amendment will not have any monetary impact on the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-11-08 is to change the section number. The proposed amendment changes the section number from 43-02-11-07 to 43-02-11-08. The proposed amendment will not have any monetary impact on the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-12-04 is to provide adequate time to review an application for a geophysical exploration permit and to inform the Commission of changes in the original permit issued. The proposed amendment requires the application for a geophysical exploration permit to be filed at least three business days prior to commencing operations and to notify the Commission of any revisions to the permit. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-12-05 is to allow greater flexibility in locating shot holes. The proposed amendment allows shot holes to be located no closer than 660 feet to water wells, buildings, underground cisterns, pipelines, and flowing springs, instead of 1320 feet. The proposed amendment will provide an economic benefit to the regulated community.

The purpose of the proposed amendment to NDAC § 43-02-12-06 is to gather information available for mapping purposes. The proposed amendment requires the latitude and longitude of each source and receiver point to be submitted to the Commission if such information was obtained. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The purpose of the proposed amendment to NDAC § 43-02-12-07 is to document shot holes and provide for adequate reclamation of the project. The proposed amendment identifies the type of marker that must be used when plugging shot holes and also requires cap leads and all debris to be removed from the project area.

The proposed rules may be reviewed at the office of the Oil & Gas Division at 1016 East Calgary Avenue, Bismarck, ND, or online at www.oilgas.nd.gov. A copy of the proposed rules and/or a regulatory analysis may be requested by writing the above address or calling (701) 328-8020. Written and oral comments on the proposed rules sent to the above address and phone number and received by 5pm, February 4th, 2004, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Industrial Commission at (701) 328-3722, or write the Oil & Gas Division at the above address, no later than December 22, 2003.

Dated this 21st day of November, 2003.

Bruce E. Hicks
Assistant Director